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14     **UNITED STATES BANKRUPTCY COURT  
15     SOUTHERN DISTRICT OF NEW YORK**

16     In Re:

17     Ditech Holding Corporation, et al.,

18     Debtors.

19     Chapter 11

20     Case No. 19-10412-JLG

21     (Jointly Administered)

22     **Hearing Date: June 20, 2019  
23     Hearing Time: 11:00 a.m. (ET)**

24     **Objection Date: June 10, 2019  
25     Objection Time: 4:00 p.m. (ET)**

26     **[Relates to Docket No. 542]**

27     **MARICOPA COUNTY TREASURER'S OBJECTION TO (I) AMENDED JOINT  
28     CHAPTER 11 PLAN OF DITECH HOLDING CORPORATION AND ITS AFFILIATED  
29     DEBTORS, AND (II) SALE OF PROPERTY**

30     Maricopa County Treasurer ("MCT"), a secured tax lien creditor, by and through  
31     its undersigned counsel, hereby objects to the *Amended Joint Chapter 11 Plan of*  
32     *Ditech Holding Corporation and Its Affiliated Debtors* (the "Plan") (DE 542), and to the  
33     sale of any property in Maricopa County. MCT objects to the Plan because (i) it is  
34     unclear regarding the accrual of interest on the MCT Claims (defined below), (ii) it fails  
35     to provide for retention of the MCT tax liens until the taxes and interest are paid in full,

1 and (iii) fails to provide for payment of the MCT Claims and any post-petition statutory  
2 interest first from the sale proceeds in the event the Debtors sell or transfer the assets  
3 located in Maricopa County, Arizona.

4 **MCT's Claims:**

5 On March 8, 2019, MCT filed three (3) secured proofs of claims: Claim #20097 in  
6 the amount of \$36,658.92; Claim #20098 in the amount of \$56,006.84, and Claim  
7 #20099 in the amount of \$2,317.73 (collectively, the "MCT Claims"). All taxes bear  
8 interest from the time of delinquency at the statutory rate of 16% per year simple until  
9 paid in full. See 11 U.S.C. § 511 and A.R.S. §§ 42-18053 and 42-18153.

10 **The Tax Liens:**

11 Arizona law provides the following.

12 a. The tax liens attached on January 1 of the respective tax years and the taxes  
13 are not discharged until the taxes are paid in full or title to the property vests  
14 in a purchaser of the property for taxes. A.R.S. §§ 42-17153 and 42-19106.

15 b. The tax liens are prior and superior to any other liens of every kind and  
16 description regardless of when another lien attached. A.R.S. §§ 42-17153 and  
17 42-19106. Therefore, any tax liens held by Maricopa County should remain in  
18 a first priority position.

19 c. "If the tax has not been paid on property sold at judicial sale, or sold by an  
20 executor, administrator, guardian or trustee, the person making the sale shall  
21 pay the taxes, penalties and costs from the proceeds of the sale." A.R.S. §  
22 42-18059.

23 d. "It is unlawful for the owner, a lienholder, a conditional vendor or any other  
24 person to knowingly sell or transfer personal property or remove it from its

location until the taxes on the property are paid." A.R.S. § 42-19107. A person who violates this section is guilty of a class 1 misdemeanor.

e. Further, "It is unlawful to knowingly move or sell a mobile home on which applicable ad valorem taxes imposed under this chapter have not been paid and are delinquent." A.R.S. § 42-19155. A person who violates this section is guilty of a class 1 misdemeanor.

f. Post-petition interest accrues on the MCT Claims at the statutory rate of 16% per annum, or at the rate stated in a Certificate of Purchase, until the taxes and interest are paid in full. A.R.S. §§ 42-18053 and 42-18153.

## OBJECTIONS

### **Post-Petition Interest:**

MCT objects to the Plan because it is unclear regarding the accrual of post-petition statutory interest on the MCT Claims. Section 2.3 of the Plan provides for the accrual of interest, but is unclear as to whether interest accrues on the MCT Claim post-petition, post-confirmation or post-effective date of the Plan. As an oversecured creditor, the Plan should clarify that post-petition interest accrues on the MCT Claims at the statutory rate until the taxes and interest are paid in full.

## **Lien Retention:**

MCT objects to the Plan because it fails to provide for retention of the tax liens on the property until the taxes and interest are paid in full. Section 10.1 of the Plan provides for the vesting of assets free and clear of all Claims, liens, encumbrances, charges, and other interests, except as provided pursuant to the Plan, the Confirmation Order, the GUC Recovery Trust Agreement, Amended and Restated Credit Facility Documents, the Exit Warehouse Facilities Documents, the Exit Working Capital Facility

1 Documents, or applicable purchase agreements (Plan, p. 53, Section 10.1). The Plan  
2 should provide for retention of the MCT tax liens until the taxes and interest are paid in  
3 full.

4 **Objection to Sale or Transfer of Property:**

5 MCT objects to the Plan and to the sale of any property in Maricopa County to  
6 the extent it fails to provide for payment of the MCT Claims first from the sale proceeds  
7 in the event the property is sold, or upon transfer of the property. As stated above, the  
8 tax liens are prior and superior to all other liens on the property. Further, the taxes and  
9 interest are required to be paid in full from the proceeds of any sale, or upon transfer of  
10 the property. The Plan should provide that the MCT Claims shall be paid in full,  
11 including post-petition interest, first from the proceeds of any sale or upon transfer of the  
12 property.

13 Based on the foregoing, MCT respectfully requests that the Court deny  
14 confirmation of the Plan unless the Debtors further amend the Plan to, (i) provide for the  
15 accrual of post-petition statutory interest, (ii) include a provision for retention of the  
16 property tax liens securing the MCT Claims and any post-petition administrative tax  
17 claims, and (iii) provide for payment in full, including post-petition interest, of the MCT  
18 Claims first from the sale proceeds in the event the property is sold or upon transfer of  
19 the property.

20 RESPECTFULLY SUBMITTED this 10th day of June, 2019.

21 WILLIAM G. MONTGOMERY  
22 MARICOPA COUNTY ATTORNEY

23 BY: /s/ Peter Muthig  
24 PETER MUTHIG  
Deputy County Attorney  
Attorney for Maricopa County Treasurer

**CERTIFICATE OF SERVICE**

IT IS CERTIFIED that the foregoing document was served upon the following parties as well as all parties receiving the Court's ECF service on June 10, 2019, by Electronic Notification.

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